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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,417	07/23/2003	James D. Wells JR.	13547-0007	9172

27268 7590 02/10/2005

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EXAMINER

LINDSEY, RODNEY M

ART UNIT PAPER NUMBER

3765

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,417

Applicant(s)

WELLS, JAMES D.

Examiner

Rodney M. Lindsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 15-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the vest of claim 6 and armor, shield and mat of claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings were received on December 28, 2004. These drawings are disapproved because they would introduce new matter into the specification. Note that the original disclosure does not support the details of the vest and armor as proposed. Permissible would be broken

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sections of the proposed vest and armor the broken sections identified as being that of a vest or armor.

Specification

3. The disclosure is objected to because of the following informalities: the description of a Figure 6A and of a Figure 6B is not commensurate with the drawings in light of the non-entry of the proposed drawings filed December 28, 2004.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sachs.

With respect to claims 1, 6, 15 and 16 note the apparatus or belt of Sachs comprising a garment or central portion A made of material 1,2,3 equivalent to ballistic material as claimed and a reinforcing member or upper and lower edge portions 4, 5 as much providing roll protection as the instant reinforcing member as claimed. With respect to claims 2, 4, 15 and 17 to strengthen the belt (see page 1, column 2, line 54) the reinforcing member 4, 5 is inherently of a stiffness or modulus of elasticity greater than that of the garment. With respect to claim 3 note reinforcing member 4, 5 as shown in Figure 1. With respect to claims 5 and 18 note the relative thickness of the reinforcing member 4,5 and garment as shown in Figure 2.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Motsenbocker. Sachs does not teach the use of an outer protective cover. Motsenbocker teaches old the use of an outer protective cover 16. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus or belt of Sachs with the outer protective cover 16 of Motsenbocker to achieve the advantage of inhibiting wear and abrasion.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Colorado. Sachs does not teach the garment formed of polyparaphenylene terephthalamide. Colorado teaches old the use of KEVLAR equivalent to polyparaphenylene terephthalamide to form a belt portion 12. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the garment of Sachs of the KEVLAR of Colorado to achieve the advantage of using a sturdy, heat and fire resistant material as taught by Colorado.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Hovis. Sachs does not teach a releasable fastener supported by the central portion of the belt. Hovis teaches old the use of a releasable fastener at 11 on the central portion of a belt. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the

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belt of Sachs with the fastener at 11 of Hovis to achieve the advantage of fixing the position of the belt relative to a garment as taught by Hovis.

10. Claims 21, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Motsenbocker. With respect to claim 21 note the belt of Sachs comprising a central portion A made of material 1,2,3 equivalent to ballistic material as claimed and upper and lower edge portions 4, 5 coupled to the central portion A. Sachs does not teach the use of an outer cover. Motsenbocker teaches old the use of an outer cover 16. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the belt of Sachs with the outer cover 16 of Motsenbocker to achieve the advantage of inhibiting wear and abrasion as taught by Motsenbocker. With respect to claim 22 note such a seam as taught at 17, 24 of Motsenbocker. With respect to claim 24 to strengthen the belt (see Sachs, page 1, column 2, line 54) the upper and lower edge portions 4, 5 are inherently of a stiffness greater than that of the central portion.

11. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Motsenbocker as applied to claim 21 above, and further in view of Hovis. Sachs does not teach a releasable fastener supported by the outer cover of the belt. Hovis teaches old the use of a releasable fastener at 11 on the central portion of a belt. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the belt of Sachs by providing the fastener at 11 of Hovis on the outer cover to achieve the advantage of fixing the position of the belt relative to a garment as taught by Hovis.

Allowable Subject Matter

12. Claims 9-14 are allowed.

Response to Arguments

13. Applicant's arguments filed December 28, 2004 have been fully considered but they are not persuasive. Contrary to applicant's remarks the mere recitation of "ballistic material" is not seen to set forth any detail or function of a material not found in or possessed by Sachs at 1,2,3. The mere recitation of "ballistic material" is broad enough to include the materials taught by Sachs. Claims 1, 15 and 20 in no way require containment of a high speed projectile. The roll protection for instance as required in claim 1 is easily met by the strengthening edges 4 and 5 of Sachs with roll protection broadly encompassing any degree of strengthening of the edges. Clearly Sachs teaches all the structure claimed which structure would function accordingly in response to impact from a projectile. In response to applicant's argument that Motsenbocker is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, belts are clearly akin to straps with Motsenbocker being concerned with strap appearance as with Sachs and the belt's appearance. Merely labeling a material as a ballistic material does not structurally or functionally define the material as many materials are capable of interacting with a projectile. The rejection of claims 1-8 and 15-24 ably set forth above is deemed proper in all respects.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

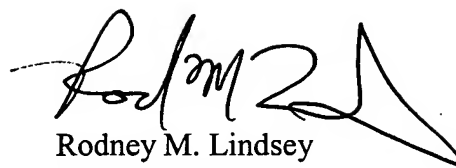
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Rod M 21', with a large, stylized flourish at the end.

Rodney M. Lindsey
Primary Examiner
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